

SUMMARY AND DRAFT TEXT FOR DISCUSSION PURPOSES
RESTAURANTS ZONING ORDINANCE AMENDMENT
September 12, 2017

Update

At the Development Process Committee meeting on July 18, 2017, staff presented concepts for a Zoning Ordinance amendment addressing restaurants. Since that time, staff has reached out to industry and citizens for feedback on the concepts. Based on that feedback and comments at the committee meeting, staff has revised some of the concepts. Engagement with industry and citizens will continue this fall.

The primary revision affects the office districts. Previously, staff proposed that restaurants and carryouts be permitted on the ground level of a minimum three-story building in the C-2 through C-4 Districts. Based on the feedback and additional review, staff believes that restaurants and carryouts are compatible uses in the higher intensity office districts, and should be permitted by right in the C-3 and C-4 Districts, without use limitations. Staff proposes that restaurants and carryouts be permitted with special exception approval in the C-2 District, as this district is intended to provide for low intensity, transitional land uses between commercial and residential uses. Staff has also continued to review the parking requirements and draft recommendations are discussed below and included in attached text.

Background

The Zoning Ordinance currently addresses places to purchase or eat prepared food as either an Eating Establishment, a Fast Food Restaurant or a Quick Service Food Store. The present definitions, adopted in 1981, have been reviewed in light of trends in retail and food establishments, as well as County experiences in trying to categorize uses. Restaurants are an increasingly important component of the retail economy, and their operations have and will continue to evolve. For example, the popular fast casual restaurants, such as Panera Bread and Pei Wei Asian Diner, blur the distinctions between the classic sit-down restaurant and the traditional fast food establishment. These trends have highlighted problems with the way we currently classify and limit restaurants based on their operational characteristics. The current regulations can limit restaurant business practices and opportunities to establish restaurants in appropriate locations, and do not accommodate new types of restaurant uses. Overall, this amendment proposes to clarify and simplify regulations to keep pace with the industry and respond to this important sector of the County's economy.

The amendment proposes to address three major areas: definitions of various types of restaurants; how they are permitted in the various zoning districts; and, parking requirements.

Definitions

- Current definitions:
 - The definition of an eating establishment captures sit-down restaurants and requires customers to be provided with a menu and be served by an employee at a table or counter on nondisposable plates.

- A fast food restaurant, such as McDonalds, may or may not include a drive-through window, and service is usually provided over a counter. Food is served in edible or disposable containers and customers generally clear their own tables.
 - A quick-service food store is defined as a building with less than 5,000 square feet of net floor area devoted to the retail sale of food or food and other items. This broad definition encompasses a typical convenience store such as a 7-Eleven, but also applies to specialty food sales such as a small grocery store, a bakery or a butcher shop.
- The proposed amendment would classify restaurants as either:
 - a restaurant;
 - a restaurant with a drive-through; or,
 - a carryout restaurant.
 - The proposed definitions have been revised to remove obsolete operational characteristics, such as whether nondisposable plates are used or whether ordering takes place at a counter, as these distinctions do not reflect current or future trends, are not indicative of land use impacts, and are generally difficult to enforce.
 - This amendment would also clarify that a quick-service food store, such as convenience store, is characterized by the frequent turnover of customers and the retail sales of food, beverages or recurrently needed items. However, small grocery, specialty or gourmet food stores, which have different impacts, would be classified as retail sales.

Permitted Zoning Districts

- The attached table illustrates which zoning districts would permit restaurants, carryouts and restaurants with a drive-through, as well as how they are permitted – whether by right or through a special exception.
- With the proposed amendment, the newly defined restaurants, including the popular fast casual restaurants, would be permitted by right in most commercial districts.
- Special exception (SE) approval would continue to be required for all restaurants with a drive-through in commercial districts, and within the Highway Corridor Overlay District.
- The existing use limitations for eating establishments in the office districts (C-3 and C-4), which require a building with a minimum of 90,000 to 100,000 square feet, have been removed. This would permit restaurants in smaller office buildings than currently allowed, which may assist with the repurposing/repositioning of those buildings.
- The current use limitations for fast food restaurants within a retail shopping center (C-5 through C-8 Districts) are difficult to interpret, and are no longer relevant given that there are fewer distinctions and differences in impacts by type of restaurant. Acknowledging the declining presence of retail sales, even in shopping centers, the amendment proposes to delete these limitations as unnecessary impediments to filling vacant spaces.

- Similarly, the more restrictive use limitations for fast food restaurants in the PDC District would be deleted to be consistent with those in the PRM District. This will remove the need for a separate SE for fast food restaurants in addition to the rezoning and final development plan approvals. Issues of compatibility, layout and circulation would remain considerations during the review and approval of the rezoning. Restaurants with a drive-through and carryout restaurants would continue to be subject to the use limitations for secondary uses.

Parking

- Current parking requirements are:
 - Eating establishments – 1 space/4 table seats + 1 space/2 counter seats + 1 space/2 employees
 - Fast food restaurants – 1 space/2 seats, unless the restaurant is located within a shopping center where it can be parked at the shopping center rate according to the overall square feet of gross floor area (GFA) of the center (4 – 4.8 spaces/1,000 SF, based on the size of the shopping center)
 - Carryout restaurants – the square feet of GFA at the corresponding shopping center rate, or at the quick-service food store rate (6.5 spaces/1,000 SF) or fast food restaurant rate, if not located within a shopping center
- The proposed amendment would revise the parking requirements as follows:
 - Restaurants – parked at the eating establishment rate
 - Drive-throughs – parked at the fast food rate
 - Carryouts – parked at the shopping center rate, if located within a center; otherwise, parked at the quick-service food store rate
 - Parking within shopping centers
 - Larger establishments (e.g., 5,000 square feet or more) – parked at the higher applicable rate, because they tend to be sit-down with a longer customer turn-over
 - Smaller restaurants and drive-throughs – parked at the shopping center rate, as currently allowed for fast food restaurants

Within this framework, the amendment would advertise two options:

- Option 1 – Retain the current rates based on seats and employees for restaurants and drive-throughs. Within shopping centers, permit all restaurants and drive-throughs with less than 5,000 square feet to be parked at the shopping center rate.
- Option 2 – Base parking requirements for restaurants and drive-throughs on square feet of gross floor area, which would be a more stable unit of measurement than seats and employees, and would reduce the need for parking tabulations with tenant turnover. This is intended to create “equivalent” rates to the current ones based on seats and employees. Based on a review of existing establishments, the existing parking rate for eating establishments equals an average of 9 spaces/1000 square feet of GFA. Larger establishments tend to have a higher rate, with those greater than 5,000 square feet in size having a rate of approximately 10 spaces/1000 square feet. The existing fast food restaurant rate (when not located within a shopping center) equals an average of 11 spaces/1000 square feet. Staff recommends that the Board adopt slightly higher rates than the averages to ensure adequate parking. The amendment proposes the following rates.

Establishments not located within a shopping center:

- Restaurants that have less than 5000 SF of GFA – 10 spaces/1000 SF
- Restaurants that have 5000 SF of GFA or more – 11 spaces/1000 SF
- Restaurants with a drive-through – 12 spaces/1000 SF

As with option 1, within shopping centers, parking for larger restaurants and drive-throughs (5,000 square feet or more), would be tabulated at the higher applicable rate. Smaller restaurants would be parked at the shopping center rate.

- The amendment also proposes limited flexibility in parking for outdoor seating. Currently, parking is required for outdoor seating; however, outdoor seating offers customers a seasonal option to dine outdoors, but, when limited, does not result in an equivalent increase in customer and parking demand. The Comprehensive Plan recommends incorporating outdoor seating into the streetscape to contribute to a high-quality pedestrian experience. It creates a sense of place and adds vibrancy to an area. The amendment proposes to exempt up to 20 outdoor seats from parking tabulations.

Attachments

Attached is proposed text for revisions to the definitions (Article 20) and the parking requirements for the proposed uses (Article 11). Revisions will also be made throughout the Zoning Ordinance to delete all references to eating establishments and fast food restaurants, and to incorporate the new use definitions. These revisions are generally outlined in the attached table of the permitted districts. Additionally, as a housekeeping measure, instead of revising the C-9 District (Super-Regional Retail Commercial) to reflect the new uses, it is proposed to be deleted.

Restaurants by Zoning District

Principal Use: P = permitted by right, P* = by right with use limitations, SE = special exception

District	Restaurant with Drive-Through	Restaurant	Carryout	Comments
C-1 (Low-Rise Office)				A restaurant or carryout would be permitted as an accessory service use to office, industrial or institutional.
C-2 (Limited Office)		SE	SE	A restaurant or carryout would also be permitted as an accessory service use to office, industrial or institutional.
C-3 & C-4 (Office & High Intensity Office)		P	P	A restaurant or carryout would also be permitted as an accessory service use to office, industrial or institutional.
C-5 – C-8 (Retail)	SE	P	P	Restaurants would be by right and the use limitations currently applicable to fast food would be deleted. All drive-through facilities would require SE approval. Carryouts are typically less than 2500 SF and as such are currently permitted by right.
PDH (Planned Development Housing)	SE	P (secondary)	P (secondary, Cat. 5)	Restaurants would be permitted as secondary uses when shown on the FDP. Drive-through restaurants would require SE approval.
PDC (Planned Development Commercial)	P (secondary, Cat. 5)	P	P (secondary, Cat. 5)	Permitted as principal (restaurants) or secondary uses (drive-through and carryout) when shown on the FDP, or by SE. Delete existing use limitations under Par. 10 of Sect. 6-206 which specifically apply to fast food restaurants.
PRC (Planned Residential Community)	P (Cat. 5)	P	P (Cat. 5)	Permitted when shown on an approved development plan, and not permitted in areas designated Residential.
PRM (Planned Residential Mixed-Use)		P (secondary)	P (secondary)	Restaurants and carryouts permitted as secondary uses when shown on the FDP.
PTC (Planned Tysons Corner)	P	P	P	Permitted when shown on the FDP – No change to current provisions.
I-I (Industrial Institutional)		P* (accessory)		No change to use limitations other than name of use.
I-1 (Light Industrial Research)				A restaurant or carryout would be permitted as an accessory service use to office, industrial or institutional.
I-2 – I-4 (Light – Medium Industrial)		SE		A restaurant or carryout would also be permitted as an accessory service use to office, industrial or institutional.
I-5 – I-6 (General – Heavy Industrial)	SE	SE	SE	A restaurant or carryout would also be permitted as an accessory service use to office, industrial or institutional.

Draft Text for Discussion Purposes

Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions, as follows:

- **Delete the definitions for EATING ESTABLISHMENT; FAST FOOD RESTAURANT; RESTAURANT; RESTAURANT, FAST FOOD; and SHOPPING CENTER, SUPER-REGIONAL in their entirety.**
- **Add the following new definitions in their proper alphabetical sequence, as follows:**

CARRYOUT RESTAURANT: Any establishment that provides, as a principal use, the preparation and sale of food and/or beverages in a ready-to consume state, primarily for consumption off the premises. A carryout restaurant shall not include drive-through facilities, and up to eight (8) seats may be provided for on-site consumption and/or customer waiting. A restaurant with more than eight seats, and which does not contain a drive-through, shall be deemed a RESTAURANT. A QUICK-SERVICE FOOD STORE or CRAFT BEVERAGE PRODUCTION ESTABLISHMENT shall not be deemed to be a CARRYOUT RESTAURANT.

RESTAURANT: Any establishment that provides, as a principal use, the preparation and sale of food and/or beverages in a ready-to-consume state for consumption on or off the premises. A RESTAURANT WITH DRIVE-THROUGH, CARRYOUT RESTAURANT, QUICK-SERVICE FOOD STORE, or CRAFT BEVERAGE PRODUCTION ESTABLISHMENT as defined herein, shall not be deemed to be a RESTAURANT.

This use shall not be deemed to include a snack bar or refreshment stand at a public or non-private recreational facility which is operated solely by the agency or group operating the recreational facility as an accessory use for the convenience of the patrons of the facility.

Entertainment that is provided for the enjoyment of the patrons shall be considered accessory to a restaurant, to include dancing by patrons, provided the space made available for such dancing shall not be more than one-eighth (1/8) of that part of the floor area available for dining. Provisions for dancing made available under this definition shall be subject to the licensing requirements of Chapter 27 of The Code.

RESTAURANT, CARRYOUT: See CARRYOUT RESTAURANT

RESTAURANT WITH DRIVE-THROUGH: Any establishment that provides, as a principal use, the preparation and sale of food and/or beverages in a ready-to-consume state for consumption on or off the premises, and which contains a drive-through. A FOOD TRUCK that does not comply with the provisions set forth in Sect. 2-510 shall be deemed a RESTAURANT WITH DRIVE-THROUGH.

- **Revise the definitions of QUICK-SERVICE FOOD STORE and RETAIL SALES ESTABLISHMENT as follows:**

QUICK-SERVICE FOOD STORE: Any building, ~~except a service station or service station/mini-mart~~, which contains less than 5000 square feet of net floor area and which is used

for the retail sale of ~~food or~~ food and other items. A quick-service food store, also referred to as a convenience store, is characterized by the frequent turnover of customers, and the retail sale of food, beverages, and other frequently needed items for household use or consumption. This definition shall not include a SERVICE STATION or SERVICE STATION/MINI-MART; and is not intended to include small grocery, specialty or gourmet food stores, which are deemed a RETAIL SALES ESTABLISHMENT.

RETAIL SALES ESTABLISHMENT: Any establishment wherein the primary occupation is the sale of merchandise for use or consumption by the immediate purchaser. This term shall also include establishments such as television and tool rental establishments, ~~and~~ photographic and portrait studios, and small grocery, specialty or gourmet food stores. For the purpose of this Ordinance, however, retail sales establishment shall not be deemed to include AUTOMOBILE-ORIENTED USES, HEAVY EQUIPMENT AND SPECIALIZED VEHICLE, SALE, RENTAL AND SERVICE ESTABLISHMENTS, RETAIL SALES ESTABLISHMENTS-LARGE, QUICK-SERVICE FOOD STORES, VEHICLE LIGHT SERVICE ESTABLISHMENTS, OR VEHICLE SALE, RENTAL AND ANCILLARY SERVICE ESTABLISHMENTS.

Amend Article 11, Off-Street Parking and Loading, Private Streets, as follows:

- **Amend Part 1, Off-Street Parking, Sect. 11-104, Minimum Required Spaces for Commercial and Related Uses, to establish parking and stacking requirements for Restaurant, Carryout Restaurant, and Restaurant with Drive-through, by revising Paragraphs 7, 8, 9, 17, 23, and adding new Par. 32 (Option 2), as follows:**

OPTION 1:

7. ~~Eating Establishment~~ Restaurant or Commercial Recreation Restaurant:

One (1) space per four (4) seats plus one (1) space per two (2) employees where seating is at tables,

and/or

One (1) space per two (2) seats plus one (1) space per two (2) employees where seating is at a counter

Spaces designated for curb-side pickup cannot be counted toward the minimum required number of parking spaces.

8. ~~Fast Food~~ Restaurant with Drive-through:

One (1) space per two (2) seats for table and/or counter seating, whether such seating facilities are inside or outside; plus eleven (11) stacking spaces for the drive-through window, with a minimum of five (5) such spaces designated for the ordering station. Such spaces shall be designed so as not to impede pedestrian or vehicular circulation on the site or on any abutting street. For fast food restaurant

~~with no seating facilities, one (1) space per sixty (60) square feet of net floor area with a minimum of ten (10) spaces~~

Spaces designated for curb-side pickup cannot be counted toward the minimum required number of parking spaces.

9. ~~Fast Food Restaurant With Drive-In Facilities~~ Restaurant or Restaurant with Drive-through with Outdoor Seating:

~~As required in Par. 8 above, plus eleven (11) stacking spaces for the drive-in window, with a minimum of five (5) such spaces designated for the ordering station. Such spaces shall be designed so as not to impede pedestrian or vehicular circulation on the site or on any abutting street~~

As required for Restaurant, Restaurant with Drive-through, or Shopping Center, except that parking will not be required for outdoor seating that is accessory to a Restaurant or a Restaurant with Drive-through, up to a maximum of twenty (20) outdoor seats. Parking will be required for outdoor seating in excess of twenty (20) seats, in accordance with the applicable standards for such uses.

17. Quick Service Food Store or Carryout Restaurant:

Six and one half (6.5) spaces per 1000 square feet of gross floor area

Spaces designated for curb-side pickup cannot be counted toward the minimum required number of parking spaces.

23. Shopping Center:

- A. 100,000 square feet of gross floor area or less: Four and three-tenths (4.3) spaces per 1000 square feet of gross floor area
- B. Greater than 100,000 but equal to or less than 400,000 square feet of gross floor area: Four (4) spaces per 1000 square feet of gross floor area
- C. Greater than 400,000 but less than 1,000,000 square feet of gross floor area: Four and eight tenths (4.8) spaces per 1000 square feet of gross floor area
- D. 1,000,000 square feet of gross floor area or more: Four (4) spaces per 1000 square feet of gross floor area

For purposes of determining whether Par. A, B, C or D above is applicable, the size of the shopping center shall be based on the definition of gross floor area as set forth in Article 20, and shall be inclusive of any gross floor area devoted to offices, ~~eating establishments~~ restaurants, restaurants with drive-through and hotels. The gross floor area calculation as qualified in Sect. 102 above shall then be used to determine the required number of parking spaces.

The off-street parking requirement set forth above shall be applicable to all uses in a shopping center, except that the area occupied by offices, ~~eating establishments~~ any individual restaurant or restaurant with drive-through that exceeds 5000 square feet of gross floor area, and hotels shall be parked in accordance with the applicable standards for such uses as set forth in this Section. For shopping centers subject to Par. A, B or C above, the area occupied by theaters shall be parked in accordance with the applicable shopping center requirement, provided that for theaters with more than 2000 seats, an additional three-tenths (0.3) space shall be provided for each seat above 2000 seats. For shopping centers subject to Par. D above, the area occupied by theaters shall be parked in accordance with the applicable shopping center requirement, provided that for theaters with more than 750 seats, an additional six (6) spaces shall be provided for each 100 seats above 750 seats.

In addition, for all shopping centers, stacking spaces as required by this Part shall be provided for those uses which have drive-in or drive-through facilities. Spaces designated for curb-side pickup cannot be counted toward the minimum required number of parking spaces.

OPTION 2:

7. ~~Eating Establishment or~~ Commercial Recreation Restaurant:

One (1) space per four (4) seats plus one (1) space per two (2) employees where seating is at tables,

and/or

One (1) space per two (2) seats plus one (1) space per two (2) employees where seating is at a counter

8. ~~Fast Food Restaurant~~ Restaurant with Drive-through:

~~One (1) space per two (2) seats for table and/or counter seating, whether such seating facilities are inside or outside. For fast food restaurant with no seating facilities, one (1) space per sixty (60) square feet of net floor area with a minimum of ten (10) spaces~~

Twelve (12) spaces per 1000 square feet of gross floor area, plus eleven (11) stacking spaces for the drive-through window, with a minimum of five (5) such spaces designated for the ordering station. Such spaces shall be designed so as not to impede pedestrian or vehicular circulation on the site or on any abutting street.

Spaces designated for curb-side pickup cannot be counted toward the minimum required number of parking spaces.

9. ~~Fast Food Restaurant With Drive-In Facilities~~ Restaurant or Restaurant with Drive-through with Outdoor Seating:

~~As required in Par. 8 above, plus eleven (11) stacking spaces for the drive-in window, with a minimum of five (5) such spaces designated for the ordering station. Such spaces shall be designed so as not to impede pedestrian or vehicular circulation on the site or on any abutting street~~

As required for Restaurant, Restaurant with Drive-through, or Shopping Center, except that parking will not be required for outdoor seating that is accessory to a Restaurant or a Restaurant with Drive-through, up to a maximum of twenty (20) outdoor seats. Parking will be required for outdoor seating that exceeds twenty (20) seats, based on the area of such seating, in accordance with the applicable standards for such uses.

17. Quick Service Food Store or Carryout Restaurant:

Six and one half (6.5) spaces per 1000 square feet of gross floor area

Spaces designated for curb-side pickup cannot be counted toward the minimum required number of parking spaces.

23. Shopping Center:

- A. 100,000 square feet of gross floor area or less: Four and three-tenths (4.3) spaces per 1000 square feet of gross floor area
- B. Greater than 100,000 but equal to or less than 400,000 square feet of gross floor area: Four (4) spaces per 1000 square feet of gross floor area
- C. Greater than 400,000 but less than 1,000,000 square feet of gross floor area: Four and eight tenths (4.8) spaces per 1000 square feet of gross floor area
- D. 1,000,000 square feet of gross floor area or more: Four (4) spaces per 1000 square feet of gross floor area

For purposes of determining whether Par. A, B, C or D above is applicable, the size of the shopping center shall be based on the definition of gross floor area as set forth in Article 20, and shall be inclusive of any gross floor area devoted to offices, ~~eating establishments~~ restaurants, restaurants with drive-through and hotels. The gross floor area calculation as qualified in Sect. 102 above shall then be used to determine the required number of parking spaces.

The off-street parking requirement set forth above shall be applicable to all uses in a shopping center, except that the area occupied by offices, ~~eating establishments~~ any individual restaurant or restaurant with drive-through that exceeds 5000 square feet of gross floor area, and hotels shall be parked in accordance with the applicable standards for such uses as set forth in this Section. For shopping centers subject to Par. A, B or C above, the area occupied by theaters shall be parked in accordance with the applicable shopping center requirement, provided that for theaters with more than 2000 seats, an additional three-tenths (0.3) space shall be provided for each seat above 2000 seats. For

shopping centers subject to Par. D above, the area occupied by theaters shall be parked in accordance with the applicable shopping center requirement, provided that for theaters with more than 750 seats, an additional six (6) spaces shall be provided for each 100 seats above 750 seats.

In addition, for all shopping centers, stacking spaces as required by this Part shall be provided for those uses which have drive-in facilities. Spaces designated for curb-side pickup cannot be counted toward the minimum required number of parking spaces.

32. Restaurant:

Ten (10) spaces per 1000 square feet of gross floor area for restaurants with a gross floor area of less than 5000 square feet

Eleven (11) spaces per 1000 square feet of gross floor area for restaurants with a gross floor area of 5000 square feet or more

Spaces designated for curb-side pickup cannot be counted toward the minimum required number of parking spaces.